

## REMARKS

Claims 1-11 are currently pending in the application. Applicant has canceled claim 6, and amended claims 1, 3 and 7. Applicant requests that new claims 12-18 be added so that claims 1-18 will be pending in the application. Applicants request reconsideration of the application in light of the following remarks.

### Objections to Claims

The Examiner has objected to claim 1 because of informalities in line 2. Applicant has amended claim 1 to replace the word “wearing” with the word “worn” as suggested by the Examiner. Applicant respectfully requests that the objection to claim 1 be withdrawn.

### Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1 and 2 were rejected under 35 U.S.C. §102(b) as being anticipated by Shusterman (U.S. Publication No.: 2003/0023146, hereinafter “Shusterman”). Applicants respectfully traverse this rejection and request reconsideration of the claims.

Shusterman teaches a garment that has monitoring devices in order to monitor remote patients. Shusterman also teaches the use of an automated medication dispenser with the garment. Based on the information communicated from the garment and the medication dispensing unit, the system can automate the amount of medication delivered to the patient.

As currently amended claim 1, provides an additional step of “using medical treating devices mounted in predetermined zones of the garment body for applying medical treatments to the user wearing the garment body.” Shusterman does not disclose the use of medical

treating devices within a garment body. Additionally, claim 1 provides for the use of biochips implanted in the person. Shusterman does not disclose the use of biochips. Accordingly, every limitation of claim 1 is not disclosed in Shusterman and is therefore not anticipated by Shusterman.

Claim 2 depends from claim 1. Claim 2 is allowable for among other reasons for depending from an allowable base claim.

Applicant respectfully requests that the anticipation rejections of claims 1 and 2 be withdrawn.

#### **Rejections under 35 U.S.C. §103**

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicant's disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

#### **Claims**

Claims 3-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shusterman (U.S. Publication No. 2003/0023146, hereinafter "Shusterman"), in view of Davidson (U.S. Publication No. 2004/0003455, hereinafter "Davidson"). Applicants respectfully traverse this rejection and request reconsideration of the claims.

Shusterman teaches a garment that has monitoring devices in order to monitor remote patients. Shusterman also teaches the use of an automated medication dispenser with the

garment. Based on the information communicated from the garment and the medication dispensing unit, the system can automate the amount of medication delivered to the patient.

Davidson teaches a system that has inflatable elements that inflate during a fall to protect the wearer. Davidson further teaches that the device includes a controller for sensing a fall and inflates the inflatable elements in response to a sensed fall. The system provides a buffer and may change the orientation of the falling body to avoid possible injury.

As amended, claim 3 requires the garment to have “a plurality of zones.” Neither Shusterman nor Davidson includes a garment that has a plurality of zones. The plurality of zones as provided in claim 3 establishes areas that particular sensors and particular medical treating devices for certain physiological functions are mounted.

Claim 3 further provides, “medical treating devices mounted in predetermined zones of the garment body for applying medical treatments to the user wearing the garment body, wherein the medical treating devices are selected from the group consisting of oxygen source devices, pumps, air bags, body temperature regulators, pain-causing devices, hypodermic syringes and electroshock devices.” The Examiner has indicated on page 5 of the Office Action that Shusterman does not disclose medical treating devices mounted in predetermined zones of the garment body. Accordingly, the Examiner relies upon Davidson in order to reject this claim element. And more specifically, Examiner indicates that the system in Davidson correlates to a medical treating device. Applicant disagrees. Davidson discloses a system that does not provide medical treatment but rather is a protective device that operates to prevent the need for medical treatment by assisting a user in falling in a correct position and to cushion the impact in a fall. This alone does not provide one of ordinary skill in the art an obvious combination of these patents in order to provide medical treating devices. There is no reasonable expectation of success that one of ordinary skill in the art would combine the features of Davidson with Shusterman. Again, the Davidson patent teaches a preventative system to prevent injury and Shusterman discloses a monitoring system that monitors a patient’s medical condition.

Shusterman is only applied to a patient when the patient is in need and Davidson is applied to a user prior to the need of any medical treatment.

Additionally, as currently amended, claim 3 incorporates the group of medical treating devices of claim 6. The Examiner on page 6 of the Office Action rejects claim 6 by citing Davidson indicating that Davidson's inflatable elements can be considered airbags. While the inflatable elements may be considered an airbag, Applicant points out that there is no likelihood of success that the inflatable elements of Davidson could serve to function as the airbags of Applicant's does, which include fixing a broken bone in position, to impart pressure to the user, to stop bleeding and to apply cardiopulmonary resuscitation or abdominal thrusts. There would be no motivation to combine Davidson with Shusterman. Shusterman does not contemplate providing medical treatment through the device but rather monitors the patient in order to determine the type and amount of medication to give the patient.

Further, Davidson does not disclose body temperature regulators, pain-causing devices, hypodermic syringes and electroshock devices as medical treating devices. There is no motivation for one of ordinary skill in the art move from Davidson and Shusterman in incorporate these other types of devices. There is no likelihood that one of ordinary skill in the art would be able to provide such medical treating device within Applicants device with any expectation of success when taking Shusterman and Davidson into account.

Accordingly, Applicant respectfully requests that the obviousness rejection of claim 3 be withdrawn.

Claims 4-5 and 9-11 depend from claim 3. Claims 4-5 and 9-11 are allowable for among other reasons for depending from an allowable base claim. Accordingly, Applicant respectfully requests that the obviousness rejection of claims 4-5 and 9-11 be withdrawn.

Claim 6 has been canceled. The rejection of claim 6 is, therefore, obviated.

Claims 7 and 8, more specifically discuss the air bag of Applicant's claimed apparatus. The Examiner on pages 6-7 of the Office Action rejects claim 6 by citing Davidson indicating that Davidson's inflatable elements can be considered airbags. While the inflatable elements may be considered an airbag, Applicant points out that there is no likelihood of success that the inflatable elements of Davidson could serve to function as the airbags are claimed in claim 7, which include fixing a broken bone in position, to impart pressure to the user, to stop bleeding and to apply cardiopulmonary resuscitation or abdominal thrusts. There would be no motivation to combine Davidson with Shusterman. Shusterman does not contemplate providing medical treatment through the device but rather monitors the patient in order to determine the type and amount of medication to give the patient.

With respect to claim 8 the Examiner cites Davidson in order to reject the claim. Claim 8 discloses that "the air bag is supported on a bracket at the garment body for supporting the spine of the user wearing the garment body in shape." Davidson does not disclose a bracket at the garment body for supporting the air bag. Further, claim 8 indicates that the airbag supports the spine of the user wearing the garment body in shape. The shape of the air bag as claimed in claim 8 and shown in FIG. 3 is an "S" shape. Davidson in paragraph [0017] indicates that the inflatable elements "may cause the back of the falling body to straighten, thus aligning the trajectory of the fall. Davidson does not teach supporting the spine in shape, but rather teaches the opposite of straightening the back. There is no motivation to combine Davidson with Shusterman in order to provide an air bag to support the spine.

Additionally, claims 7 and 8 depend from claim 3 and are allowable for depending from an allowable base claim.

Accordingly, Applicant respectfully requests that the obviousness rejections of claims 7 and 8 be withdrawn.

## New Claims

Support for all the new claims can be found throughout the originally filed specification, claims and drawings. Hence, new claims 12-18 do not introduce new matter into the application.

Claim 12 is directed to an apparatus for monitoring the physiological functioning and conditions of a user, which includes several features not disclosed by the cited references. For example, claim 12 describes the apparatus as including first and second sensors mounted in the garment body for detecting the physiological functioning data and conditions of the user wearing the garment body and first and second medical treating devices mounted in the garment body for applying medical treatments to the user wearing the garment body, wherein the first and second medical treating devices are spaced apart from each other and connected to the first and second sensors, respectively. Applicant believes that none of the cited references disclose these features. As discussed in more detail above with the rejection of claim 1, Shusterman does not disclose the use of first and second medical treatment devices in a garment body. Applicant believes that Davidson does not either. Thus, Applicant believes that claim 12 is allowable in view of the cited references.

Claim 13 is directed to apparatus as claimed in claim 12, wherein the garment body, first and second sensors and first and second medical treating devices are wearable by the user and removable from the user as a single unit. Applicant believes that none of the cited references disclose this limitation. For example, Shusterman does not disclose the use of first and second medical treatment devices in a garment body. Further, Davidson does not disclose first and second sensors and first and second medical treating devices that are wearable by the user and removable from the user as a single unit. Thus, Applicant believes that claim 13 is allowable in view of the cited references.

Claim 14 is directed to apparatus of claim 12, wherein the first and second medical treating devices apply different medical treatments to the user wearing the garment body. Applicant believes that none of the cited references disclose this limitation. For example,

Shusterman does not disclose the use of first and second medical treatment devices in a garment body. Further, Davidson does not disclose first and second medical treating devices which apply different medical treatments to the user wearing the garment body. Thus, Applicant believes that claim 14 is allowable in view of the cited references.

Claim 15 is directed to apparatus of claim 14, wherein the first medical treating device is one of a oxygen source device, pump, air bag, body temperature regulator, pain-causing device, hypodermic syringe and electroshock device. As discussed in more detail above with the rejections of claims 1-11, none of the cited references disclose this limitation. Thus, Applicant believes that claim 15 is allowable in view of the cited references.

Claim 16 is directed to apparatus of claim 16, wherein the second medical testing device is one of an oxygen source device, pump, air bag, body temperature regulator, pain-causing device, hypodermic syringe and electroshock device, the second medical testing device being a different type of testing device than the first medical testing device. As discussed in more detail above with the rejections of claims 1-11, none of the cited references disclose this limitation. Thus, Applicant believes that claim 16 is allowable in view of the cited references.

Claim 17 is directed to apparatus of claim 12, wherein the first and second sensors detect different types of physiological functioning data and conditions of the user wearing the garment body. Applicant believes that none of the cited references disclose this limitation. For example, Shusterman and Davidson do not disclose first and second sensors detect different types of physiological functioning data and conditions of the user wearing the garment body. Thus, Applicant believes that claim 17 is allowable in view of the cited references.

Claim 18 is directed to apparatus as claimed in claim 11, wherein the first and second sensors are selected from the group consisting of pressure sensors, temperature sensors, terminal sensors, voice sensors, biochemical sensors and biochips. As discussed in more detail above with the rejections of claims 1-11, none of the cited references disclose this limitation. Thus, Applicant believes that claim 18 is allowable in view of the cited references.

**Regarding Doctrine of Equivalents**

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

Applicant has amended the aforementioned claims herein solely to expedite prosecution of this application. In doing so, Applicant does not dedicate the subject matter of the amended claims to the public, and does not acquiesce to the Examiner's reason(s) offered in support of the rejections of the amended claims. Applicant also reserves the right to seek patent protection for claims similar or identical to the amended and/or canceled claims in one or more subsequently filed, related applications.

## CONCLUSION

Applicant respectfully requests reconsideration of this application in view of the remarks and arguments provided above. Applicant believes that the cited references do not anticipate or make obvious Applicant's claimed invention. Because of this, Applicant respectfully requests a timely Notice of Allowance to be issued for this case.

If any fees, including extension of time and new claim fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response.

Respectfully submitted,

Dated: June 19, 2008

By: /Greg L. Martinez/

Greg L. Martinez  
Agent for Applicant  
Reg. No. 53,276

**SCHMEISER, OLSEN & WATTS LLP**  
18 East University Drive, #101  
Mesa, AZ 85201  
(480) 655-0073  
Customer No. 23123